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Testimony of the Honorable Barbara M. Quinn,
Chief Court Administrator
Judiciary Committee Public Hearing
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H.B. 6638, An Act Concerning Juvenile Justice

H.B. 6637, An Act Concerning Determinations of Competency in Juvenile and Youth in Crisis Matters

H.B. 6636, An Act Concerning Children Convicted as Delinquent who are Committed to the Custody of the Commissioner of Children and Families

S.B. 1164, An Act Delaying Implementation of Provisions to Raise the Age of Juvenile Court Jurisdiction for Youth Seventeen Years of Age

H.B. 6634, AAC Child Welfare and Detention in the Juvenile Justice System and Erasure of Juvenile Records

S.B. 1223, AAC the Responsibilities of a Parent or Guardian of a Child Convicted as Delinquent

Good morning, Senator Coleman, Representative Fox, Senator Kissel, Representative Hetherington, and members of the Judiciary Committee, thank you for the opportunity to testify on several bills affecting juvenile matters. The Judicial Branch supports **H.B. 6638,** ***An Act Concerning Juvenile Justice,*** **H.B. 6637,** ***An Act Concerning Determinations of Competency in Juvenile and Youth in Crisis Matters,*** and **H.B. 6636,** ***An Act Concerning Children Convicted as Delinquent who are Committed to the Custody of the Commissioner of Children and Families.*** All three of these bills come out of the Juvenile Jurisdiction Policy and Operations Coordinating Council working group, which was co-chaired by Senator Harp and Representative Walker. The working group, which included the Judicial Branch, the Office of the Chief Public Defender, the Office of the Chief State's Attorney, the Department of Children and Families, the Department of Education and the Police Chiefs' Association, met prior to the

legislative session to identify legislative proposals that could be agreed to by all participants. These bills fall into that category.

Regarding the other juvenile bills, the Judicial Branch has some concerns with **H.B. 6634,** ***AAC Child Welfare and Detention in the Juvenile Justice System and Erasure of Juvenile Records***, which I will discuss further a bit later. We oppose **S.B. 1164,** ***An Act Delaying Implementation of Provisions to Raise the Age of Juvenile Court Jurisdiction for Youth Seventeen Years of Age,*** and **S.B. 1223,** ***AAC the Responsibilities of a Parent or Guardian of a Child Convicted as Delinquent.***

Having provided this summary of our position on the bills, I will now address them individually.

H.B. 6638, An Act Concerning Juvenile Justice

The Judicial Branch strongly supports this bill. It would make vital conforming and technical amendments to ensure that the version of the statutes that will go into effect on July 1, 2012 conforms to what is now the law for 16 year olds. In addition, the bill would make other minor changes to address issues that have arisen during the implementation of "Raise the Age." These would do the following:

- Clarify that mandated procedures in family violence cases do not apply to delinquency proceedings, and that violations of orders of protection that have been imposed in cases in adult court will be heard in adult court.
- Clarify that the Department of Children and Families' responsibility for committed delinquents ends at age 20.
- Authorize judges to fashion orders allowing for further disclosure of records to persons specified by the judge. There are times when it does not make sense, for example, to allow a victim access to juvenile records but forbid them from using that information.
- Amend the statute requiring police to notify school districts of a juvenile arrest to include the school district in which the child attends school, not just the district where the child lives. This is done in recognition that an increasing number of students are attending school outside of their district.
- Require the disclosure of education records, consistent with Family Educational Rights and Privacy Act (FERPA), for children who are confined in juvenile detention centers.

This will ensure that they are provided the appropriate educational programs and services while in the center;

- Add the crimes of home invasion and strangulation to the list of serious juvenile offenses;
- Add the crime of evading responsibility after an accident that causes death or serious injury to the list of offenses the court must report to the Department of Motor Vehicles for administrative sanctions;
- Require that police act on missing child reports for children up to age 18, rather than the current age of 15.

These changes will ensure that the ongoing implementation of "Raise the Age" will go smoothly. I urge the Committee to act favorably on this proposal.

H.B. 6637, An Act Concerning Determinations of Competency in Juvenile and Youth in Crisis Matters

The Judicial Branch strongly supports this proposal, which would create a competency law in Connecticut that is tailored to juveniles. By way of background, for several years a working group consisting of various participants and stakeholders in the juvenile justice system has been working on drafting a separate, more child-focused, juvenile competency law. The working group completed its mission in June of 2009. The goal of the working group was to codify the longstanding practice in our juvenile courts to promote prevention efforts through the support of programs and services designed to meet the needs of incompetent juveniles charged with committing delinquent, family with service needs or youth in crisis acts.

Currently, because there is no juvenile-specific competency law, the adult competency law (C.G.S. sec. 54-56d), is used. There are significant issues with applying the adult competency law to juveniles:

- §54-56d requires all children found not competent and not restorable to be committed to the Department of Children and Families (DCF). This is inappropriate in many cases.
- §54-56d provides that if a court orders the "defendant" placed in the custody of the DCF, *"the commissioner. . . .shall then apply for civil commitment in accordance with section 17a-75 to 17a-83, inclusive."* This presents the following issues:
    - If the Probate Court does not order a civil commitment for the child, DCF is no longer required to provide any services and the child must be released.

- There is no provision that requires DCF or any other suitable provider to continue providing services to the incompetent child or youth in a less restrictive setting.

- Under the current law, children being evaluated for competency or ordered for restoration must be placed at Riverview Hospital, the only state psychiatric hospital for children. Most of these children are not clinically in need of acute hospitalization.
- There is no requirement that the competency evaluators have any expertise in child and adolescent psychiatry or psychology.
- The Department of Mental Health and Addiction Services, which provides restoration services for adults, has indicated it is not adequately equipped to restore children or youth under 18 to competency. Consequently, this work is now being done in a rather ad hoc basis, out of necessity, by DCF at the Riverview Hospital or in a community-based setting.
- DCF is the only agency in Connecticut with the authority to take custody of and provide services to children.
    - DMHAS facilities cannot accept patients under 18.

An important aspect of the proposed statute is that it does not allow for the prosecution of any child under the age of 7, because children that young are presumed incompetent. In addition, the proposed statute sets up a much more time-restricted approach to competency evaluation and restoration and provides for a period of continued services, under the direction and supervision of the court, to the child or youth who is incompetent, regardless of whether a finding has been made that they can be restored to competency. The maximum period for restoring competency under the proposed statute is six months, rather than the eighteen months or four years under the adult competency statute.

The proposed statute also affords a judge discretion to balance the need for continued intervention by considering the seriousness of the delinquent act and the necessity for additional services.

The proposed statute does not allow for the forced medication of a child or youth in order to enable him or her to stand trial, a mechanism the working group concluded is unnecessary and draconian in light of the fact that the most serious juvenile delinquency cases (Class A and B - - felonies, homicides, sexual and serious physical assaults) will be transferred to adult court. After a transfer to adult court, the adult competency law would apply.

This proposal will address a significant gap in our juvenile justice system. I urge the Committee to act favorably on this bill.

H.B. 6636, An Act Concerning Children Convicted as Delinquent who are Committed to the Custody of the Commissioner of Children and Families

The Judicial Branch supports this proposal, which would allow the Commissioner of DCF to grant passes to juveniles who have been transferred to a different facility prior to the expiration of 60 days, and would delete the requirement that a child be held in the Connecticut Juvenile Training School for a minimum of one year. That requirement was contained in the original statutes establishing CJTS. Current research does not support the need for a longer placement, nor is it supported by current practice. We urge you to support this bill.

H.B. 6634, AAC Child Welfare and Detention in the Juvenile Justice System and Erasure of Juvenile Records

The Judicial Branch does not object to section 1 of this proposal, which would require the police to get the approval of a judge in order for a child who has been arrested to be admitted into a juvenile detention center. This is a change from the position we took in prior years regarding this proposal. However, because the analyses of disproportionate minority contact in the juvenile justice system conducted at the direction of the Juvenile Justice Advisory Committee have shown that placement in a detention center upon arrest is one of the decision points where disparity occurs, we believe we should take on this additional responsibility. We anticipate that setting up a system to handle these requests will function in the same way that our system for making judges available 24/7 to sign warrants does -- designated judges will be on call during non-business hours to review these matters.

The Judicial Branch does not support sections 2 and 3 of this proposal because we do not have the capability to comply with its requirements. While we certainly support the basic premise of the juvenile justice system, that information about juvenile convictions is confidential and should not be available to the public, there are both technical and practical issues with these sections. They would require court clerks to monitor all delinquency convictions and family with service needs adjudications for two years to determine if the child has been subsequently arrested or convicted. At the end of that period, if the child is 17 and had not had subsequent convictions, the clerk must not just erase, but destroy, the records. There are two major issues with this requirement.

The first is that the Clerk's Offices simply do not have the capacity to monitor the age and record of each and every child who has been convicted or adjudicated. Current law provides that a petition must be filed in order for erasure to occur. This requirement must continue in

order for the court to have knowledge that the child has attained the required age and fulfilled the conditions for erasure. While the proposed change may look like it's making things easier for juveniles, it will have the opposite effect. We will not be able to comply with its monitoring requirement, so the erasures and destructions will not occur automatically. In fact, absent a petition, they will not occur at all.

Secondly, this proposal is in direct conflict with the changes to the juvenile records statute (C.G.S. section 46b-124) that were enacted in 2008 to give employees of the Department of Correction and the Board of Pardons and Board of Parole access to the juvenile records of adults in the custody of the Department. The purpose of this access is to facilitate risk/needs assessments, to determine suitability for release or a pardon, and to determine the supervision and treatment needs of parolees. Under this proposal, even if the records might benefit the subject, they will have been destroyed. If there is something those agencies ought to know, it will no longer exist.

We also do not support section 4, which would require the Judicial Branch and several other entities to annually submit reports to OPM on plans to address disproportionate minority contact in the juvenile justice system and steps taken to implement those plans during the previous fiscal year. We would respectfully suggest that submitting an annual plan and report is not the most effective way to address the problem of disproportionate minority representation in our juvenile justice system. As I am sure you are aware, over the years the Juvenile Justice Advisory Committee has commissioned comprehensive studies on disproportionate minority contact in the juvenile justice system. These studies have taken a very detailed look at the system. The most recent study resulted in a report that was issued in May 2009, and that report identifies specific problem areas throughout the system. We would suggest that an action-oriented systemic solution to the problems is needed – not more planning and reporting.

In conclusion, I urge the Committee not to act favorably on sections 2, 3 and 4 of this proposal.

S.B. 1164, An Act Delaying Implementation of Provisions to Raise the Age of Juvenile Court Jurisdiction for Youth Seventeen Years of Age

The Judicial Branch does not support a delay in the full implementation of "Raise the Age." We are in the process of planning for the integration of the 17-year-olds into the juvenile justice system and expect to be fully prepared for that to occur on July 1, 2012. Therefore, we respectfully request that the Committee take no action on this bill.

S.B. 1223, AAC the Responsibilities of a Parent or Guardian of a Child Convicted as Delinquent

We would respectfully request that the Committee take no action on this proposal. Presently, our juvenile court judges have the authority to order parents to do what the bill specifies, such as attending court hearings and holding them in contempt if they do not. We believe that this should remain within the discretion of the judge, as there are instances where a parent is so disengaged with the life of the child that it makes no sense to require their presence in court. If the legislature is intent on acting on this bill, we believe that the "shall" in line 17 ought to be amended to say "may" to reflect this reality. Similarly, section 2 should also be amended to allow the court to exercise its discretion.

In conclusion, I would like to thank the members of the Committee for allowing me to address this large number of bills, and for your consideration.